

JAN 29 2008

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Suite 1800
Arlington, Virginia 22209
Phone: (703) 312-6600
Fax: (703) 312-6666

**ANTONELLI,
TERRY, STOUT & KRAUS, LLP**

Fax

To: Hon. Commissioner of Patents
Attn: Office of Petitions
Ms. Alicia Brown

From: Donald E. Stout

Fax: (571) 273-8300

Pages: 16 pages

Phone: (571) 272-3282

Date: January 29, 2008

Re: U.S. Serial No. 09/083,180

CC:

Filed: May 22, 1998

ATS&K Ref: 612.36255X00

☐ Urgent ☒ For Filing ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• **Comments:**

I hereby certify that the following documents:

(1) Renewed Petition for Expedited Consideration of August 5, 1999 Response to Notice of Abandonment (2 pgs.), along with
(2) copy of 10/7/2005 Postcard and Petition for Expedited Consideration of August 5, 1999 Response to Notice of Abandonment (3 pgs.), and
(3) copy 8/5/1999 Postcard and Response to Notice of Abandonment, including copies of 8/7/1998 Postcard and Response to Notice to file Missing Parts and Late Declaration & copy of Notice of Abandonment (10 pgs.)
are being facsimiled to the Office of Petitions of the U.S. Patent and Trademark Office (Fax No. 571/273-0025) on January 25, 2008.



Donald E. Stout, Reg. No. 26, 422

If you experience any problem regarding this transmission, please contact Donna ext. 6649

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JAN 29 2008

612.36255X00
4130/BA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Marc FLEURY et al
Serial No.: 09/083,180
Filed: May 22, 1998
For: IMPROVED DEVICE FOR MEASURING
PHYSICAL CHARACTERISTICS OF
A POROUS SAMPLE
Art Unit: To Be Assigned
Examiner: To Be Assigned

**RENEWED PETITION FOR EXPEDITED CONSIDERATION OF
AUGUST 5, 1999 RESPONSE TO NOTICE OF ABANDONMENT**

MS: PETITIONS, Ms. Alicia Brown
(571) 272-3205
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 29, 2008

Sir:

On October 7, 2005, the undersigned submitted a Petition for Expedited Consideration of the August 5, 1999 Response to Notice of Abandonment which was not acted upon by the U.S. PTO. The October 7, 2005 Petition contained Applicants' August 5, 1999 Response to Notice of Abandonment, including all pertinent papers which had been filed in Applicants' previous Petitions.

The undersigned discussed this matter by telephone on January 25, 2008 with Ms Alicia Brown of the Office of Petitions. She is thanked for the advice provided to the undersigned which is reflected by the enclosed Renewed Petition which submits all previous papers.

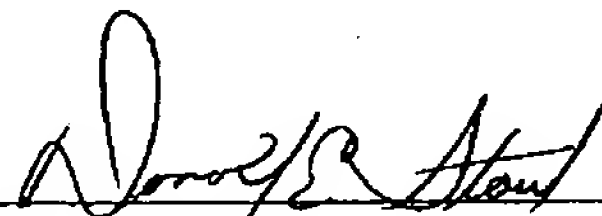
Early action on this Petition and activation of the abandoned application to pending status is respectfully requested.

If there are any questions, or further information is needed, the undersigned may be reached by telephone.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (612.36255X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



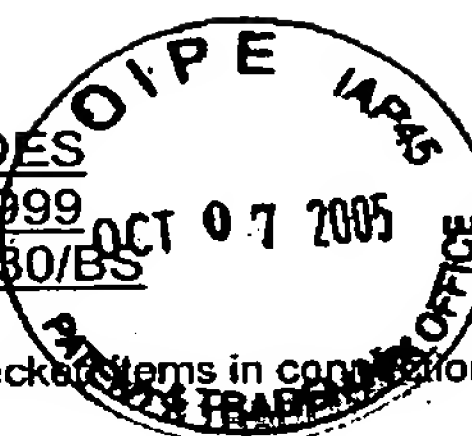
Donald E. Stout
Registration No. 26,422
(703) 312-6600

Attachments

DES:dlh

Patent Dkt. No. 612.36255X00
 Application No. 09/083,180
 Applicants (s) Marc FLEURY, et al.
 Papers Filed Herewith on

Attorney Initials DES
 Filing Date 5/22/1999
 Client Ref. No. 4130/BS
October 7, 2005



Receipt is hereby acknowledged of the papers filed as indicated by the checkmark in connection with the above-identified application:

☐ Credit Card Payment Form

☐ Fees \$

☐ Request for Continuation Examination

☐ Certificate of Correction

☐ Terminal Disclaimer

☐ Fee Transmittal Form

☐ Replacement Drawings

☐ Petition to Make Special

☐ Declaration

☐ Response of Office Action

☐ Selection of Practitioners

☐ Assignment Papers

☒ Petition for Expedited
 Consideration of 8/5/99
 Response to Notice of
 Abandonment

Time (months)

☐ Information Disclosure Statement

☐ PTO 1449

☐ Cited Reference (s)

☐ Amendment

☐ Preliminary Amendment

☐ Supplemental Amend.

☐ Claim for Priority

☐ Certified Copy (s) of Priority

☐ Notice of Appeal

☐ Reissue

☐ Sequence Listing

☐ Publication Fee

☐ Maintenance Fee

☐ Issue Fee

DUE DATE: N/A

RECEIVED
CENTRAL FAX CENTER
JAN 29 2008

612.36255X00
4130/BA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Marc FLEURY et al
Serial No.: 09/083,180
Filed: May 22, 1998
For: IMPROVED DEVICE FOR MEASURING
PHYSICAL CHARACTERISTICS OF
A POROUS SAMPLE
Art Unit: To Be Assigned
Examiner:

**PETITION FOR EXPEDITED CONSIDERATION OF
AUGUST 5, 1999 RESPONSE TO NOTICE OF ABANDONMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 7, 2005

Sir:

On August 5, 1999, Applicants submitted a Response to Notice of Abandonment. A copy is enclosed including the post card receipt of the United States Patent and Trademark Office dated August 7, 1998 showing a Response to Notice to File Missing Parts.

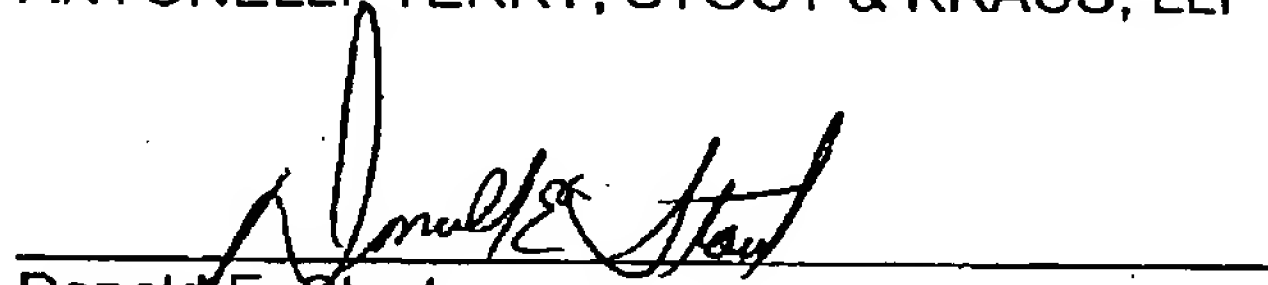
The U.S. PTO has not properly considered the August 5, 1999 Request. Applicants request expedited consideration to reinstate this application to pending status.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the

filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (612.36255X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

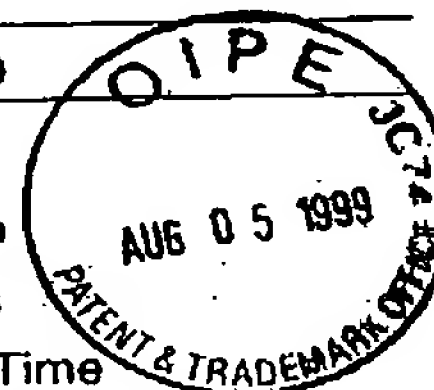


Donald E. Stout
Registration No. 26,422
(703) 312-6600

Attachments

DES:dlh

Patent ☒ Trademark ☐ 612.36255X00
Serial No. 08/083,180 Filed May 22, 1998
Applicant(s) Marc FLEURY et al
Papers filed herewith on August 5, 1999
☐ Fees \$0.00 ☐ Assignment
☐ New Application ☐ Letter to Draftsman
☐ Amendment ☐ Priority Documents
☐ Notice of Appeal ☐ Petition for Ext. of Time
☐ Appeal Brief ☐ Sheets of Formal Drawings
☒ Other Response to Notice of Abandonment,
Copy of 8/7/98 Post Card, Copy of 8/7/98
Response to Notice to File Missing Parts & Lt.
Declaration, (copy of Not. of Aband.) (9 pgs.)



Receipt is hereby acknowledged of the papers filed as indicated in connection with above identified case.

COMMISSIONER OF PATENTS AND TRADEMARKS

(DES/ALL)

RECEIVED
CENTRAL FAX CENTER
JAN 29 2008

612.36255X00

4130/JC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Marc FLEURY et al
Serial No.: 00/083,180
Filed: May 22, 1998
For: IMPROVED DEVICE FOR MEASURING PHYSICAL
CHARACTERISTICS OF A POROUS SAMPLE
Attn: Customer Service Center
Initial Patent Examination Division

RESPONSE TO NOTICE OF ABANDONMENT

Assistant Commissioner
for Patents
Washington, D. C. 20231

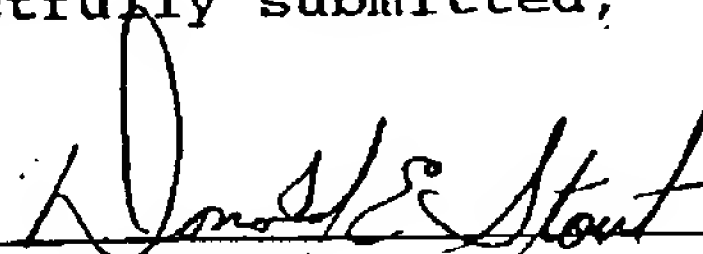
August 5, 1999

Sir:

In response to the Notice of Abandonment mailed July 9, 1999, attached hereto is a copy of Applicants' original Response to Notice to File Missing Parts of Application mailed August 7, 1998 in connection with the above-identified application, Applicants filed therewith an executed Declaration and Power of Attorney for Patent Application in compliance with 37 C.F.R. §1.63. In addition, Applicants submitted a check for \$130.00 to cover the surcharge for the filing of the belated Declaration in accordance with 37 C.F.R. §1.16(e). Also enclosed herewith is a copy of the post card receipt.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (612.36255X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



Donald E. Stout
Registration No. 26,422
ANTONELLI, TERRY, STOUT & KRAUS, LLP

Attachments

DES:dlh

Patent ☒ Trademark ☐ 612.36255X00
Serial No. 09/083,180 Filed May 22, 1998
Applicant(s) Marc FLEURY et al
Papers filed herewith on August 7, 1998
☒ Fees \$ 170.00 ☒ Assignment (2 pgs.) \$ 40.00
☐ New Application ☐ Letter to Draftsman
☐ Amendment ☐ Priority Documents
☐ Notice of Appeal ☐ Petition for Ext. of Time
☐ Appeal Brief ☐ Sheets of Formal Drawings
☒ Other Response to Notice to File Missing Parts,
and Late Declaration (copy of Notice) (5 pgs.)
(130.00), and Information Disclosure Statement,
1449, Fr. Srch Rept., Trans. (7 pgs.) & 2 EPO
& 2 U.S. Refs.

Receipt is hereby acknowledged of the papers filed as indicated in connection with above identified case.

COMMISSIONER OF PATENTS AND TRADEMARKS

8/9/98

8/12/98

RECEIVED
CENTRAL FAX CENTER

JAN 29 2008

612.36255X00
4130/JC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Marc FLEURY et al
Serial No.: 08/083,180
Filed: May 22, 1998
For: IMPROVED DEVICE FOR MEASURING PHYSICAL
CHARACTERISTICS OF A POROUS SAMPLE
Attn: Customer Service Center
Initial Patent Examination Division

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION -
SUBMISSION OF LATE DECLARATION

Assistant Commissioner
for Patents
Washington, D. C. 20231

August 7, 1998

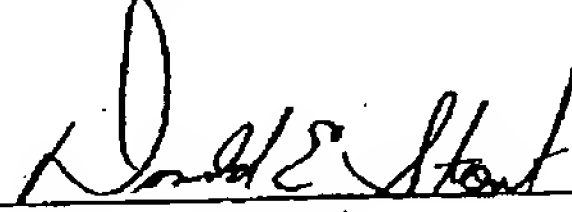
Sir:

In response to the Notice to File Missing Parts of Application dated June 9, 1998 in connection with the above-identified application, Applicants are filing herewith an executed Declaration and Power of Attorney for Patent Application in compliance with 37 C.F.R. §1.63. In addition, Applicants are also submitting a check for \$130.00 to cover the surcharge for the filing of the belated Declaration in accordance with 37 C.F.R. §1.16(e).

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this

paper, including extension of time fees, to Deposit Account No. 01-2135 (612.36255X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



Donald E. Stout
Registration No. 26,422
ANTONELLI, TERRY, STOUT & KRAUS, LLP

Attachments

DES:dlh

4130/JC

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that :

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled :

IMPROVED DEVICE FOR MEASURING PHYSICAL CHARACTERISTICS OF A POROUS SAMPLE

the specification of which (check one) ☐ is attached hereto

☒ was filed on May 22, 1998_____

as Application Serial No.09/083,180_____

And was amended on_____

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed :

Prior Foreign Application (s)

Priority Claimed

| | | | | |
|-------------------|-------------------|------------------------|-------------------------------------|--------------------------|
| <u>97/06.434</u> | <u>FRANCE</u> | <u>23/05/97</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |
| <u> </u> | <u> </u> | <u> </u> | <input type="checkbox"/> | <input type="checkbox"/> |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |
| <u> </u> | <u> </u> | <u> </u> | <input type="checkbox"/> | <input type="checkbox"/> |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |
| <u> </u> | <u> </u> | <u> </u> | <input type="checkbox"/> | <input type="checkbox"/> |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |
| <u> </u> | <u> </u> | <u> </u> | <input type="checkbox"/> | <input type="checkbox"/> |
| (Number) | (Country) | (Day/Month/Year Filed) | Yes | No |

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application :

| | | |
|--------------------------|-------------------|------------------------|
| <u> </u> | <u> </u> | <u> </u> |
| (Application Serial No.) | (Filing Date) | (Day/Month/Year Filed) |
| <u> </u> | <u> </u> | <u> </u> |
| (Application Serial No.) | (Filing Date) | (Day/Month/Year Filed) |
| <u> </u> | <u> </u> | <u> </u> |
| (Application Serial No.) | (Filing Date) | (Day/Month/Year Filed) |

(Continued on Page 2)

I hereby appoint as principal attorneys; Donald R. Antonelli, Reg. No. 20,296; David T. Terry, Reg. No. 20,178; Melvin Kraus, Reg. No. 22,466; Stanley A. Wal, Reg. No. 26,432; William I. Solomon, Reg. No. 28,565; Gregory E. Montone, Reg. No. 28,141; Ronald J. Shore, Reg. No. 28,577; Donald E. Stout, Reg. No. 26,422; Alan E. Schiavelli, Reg. No. 32,087; James N. Dresser, Reg. No. 22,973 and Carl I. Brundidge, Reg. No. 29,621 to prosecute and transact all business connected with this application and any related United States application and international applications. Please direct all communications to the following address :

ANTONELLI, TERRY, STOUT & KRAUS
Suite 1800
1300 North Seventeenth, Street
Arlington, Virginia 22209
U.S.A.
Telephone : (703) 312-6600
Fax : (703) 312-6666

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United State Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

(Full Name)

(Signature)

Date 29 juin 1998 Inventor Marc FLEURY Marc Fleury

Residence 1 Les Geais, Domaine St François d'Assise Citizenship France

Post Office Address 78170 La Celle Saint Cloud (France)

Date 29 juin 1998 Inventor Gabriel RINGOT Gabriel Ringot

Residence 7, rue Barbes Citizenship France

Post Office Address 92400 Courbevoie (France)



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO./TITLE |
|--------------------|---------------------|-----------------------|---------------------------|
| 09/083,180 | 05/22/98 | FLEURY | M 612.36255) |

020457

0222/0609

ANTONELLI TERRY STOUT KRAUS

1300 NORTH SEVENTEENTH STREET SUITE 1800
ARLINGTON VA 22209

NOT ASSIGNED

2857

DATE MAILED:

06/09/98

NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a
☐ small entity (statement filed) ☒ non-small entity is \$ 130.00.

☐ 1. The statutory basic filing fee is:

- ☐ missing.
☐ insufficient.

Applicant must submit \$ _____ to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☐ 2. Additional claim fees of \$ _____, including any multiple dependent claim fees, are required.

\$ _____ for _____ independent claims over 3.

\$ _____ for _____ dependent claims over 20.

\$ _____ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing or unexecuted.
☐ does not cover the newly submitted items.
☐ does not identify the application to which it applies.
☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application does not comply with the Sequence Rules.

See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

C. McDaniel
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE


**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO./TITLE |
|--------------------|---------------------|-----------------------|---------------------------|
| 09/083,180 | 05/22/98 | FLEURY | M 612.36255X00 |

 020457 0212/0709
 ANTONELLI TERRY STOUT AND KRAUS
 SUITE 1800
 1300 NORTH SEVENTEENTH STREET
 ARLINGTON VA 22209

DATE MAILED: 07/09/99

0000

07/09/99

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) or (g)
(Filing Date Granted)**

 The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on June 9, 1998.

- ☒ No reply was received.
- ☐ The reply received on _____ was untimely.
- ☐ The reply received on _____ was improper. The reply did not include:

- ☐ 1. The surcharge under 37 CFR 1.16(e) required for filing the basic filing fee or oath or declaration on a date later than the filing date of a nonprovisional application.
- ☐ 2. The surcharge under 37 CFR 1.16(i) required for filing the basic filing fee or cover sheet on a date later than the filing date of a provisional application.
- ☐ 3. The full amount of the basic filing fee under 37 CFR 1.16 (a), (f), (g), (k).
 (Note: A nonprovisional application may not be relied on for benefits under 35 U.S.C. 120 and 37 CFR 1.78 unless the processing and retention fee set forth in 37 CFR 1.21(l) is paid within the one year period set forth in 37 CFR 1.53(f). A provisional application may not be relied on for benefits under 35 U.S.C. 119(e) and 37 CFR 1.78 unless the basic filing fee is paid).
- ☐ 4. The oath or declaration of all the inventors required under 37 CFR 1.63 for this nonprovisional application.

☐ The letter of Express Abandonment filed on _____ is acknowledged.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

C. Barnes
 Customer Service Center
 Initial Patent Examination Division (703) 308-1202

PART 2-COPY TO BE RETURNED WITH RESPONSE

FORM PTO-1666 (REV. 4-99)

PAGE 16/16 * RCVD AT 1/29/2008 8:03:06 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/19 * DNIS:2738300 * CSID:7033126666 * DURATION (mm-ss):04-40